

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE FIRST DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 19968 of 2004

Between:

S. Subramanyeswara Rao, S/o. Pulleswara Rao,
R/o. Moturu, Gudivada Mandal, Krishna District.

..... PETITIONER

AND

- 1 The Divisional Engineer, Irrigation, PWD Division,
Gudiwada, Krishna District.
- 2 The Executive Engineer, Irrigation, PWD Division,
Vijayawada, Krishna District.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue Writ of Mandamus or any other appropriate Writ or direction declaring the action of the respondents in taking steps to remove the existing pipes between 402 M and 833 M of Nakkalakodu branch of Moturu Channel, Gudivada Mandal, Krishna District as illegal arbitrary.

Counsel for the Petitioner: G.JHANSI

Counsel for the Respondents: GP FOR IRRIGATION & COMM AREA DEV.

The Court at the stage of admission made the following Order:

Heard the learned counsel for the petitioner and the learned Government Pleader appearing for the respondents.

The petitioner claims to be the owner of agricultural lands in R.S.Nos.257 and 258 of Muttur Village, Gudivada Mandal, Krishna District. It is stated that the said lands are being irrigated from the water drawn from Nakkalakodu branch of Moturu channel being released from three existing pipes. It is alleged that the respondents have been taking steps to remove the existing pipes without there being any justifiable reason and without issuing any notice to him or any other effected person. Though the petitioner issued a notice dated 27-10-2004, requesting the respondents not to resort to such illegal action, there is no response, but the respondents are proceeding with the proposed action of removing the existing pipes between 402 M and 833 M of Nakkalakodu branch of Moturu channel. Hence, this writ petition seeking a declaration that the said action of the respondents is arbitrary and illegal.

It is relevant to note that under the Andhra Pradesh Irrigation Utilisation and Command Area Development Act, 1984 (for short 'the Act'), a detailed procedure is prescribed for the construction, maintenance, repair and upkeep of the irrigation system under the pipe outlet. Moreover, Chapter-V of the Act specifically provides for regulation of irrigation and equitable water use management. Under Section 19 of the Act, the Irrigation Officer is empowered to regulate the irrigation system. It is also relevant to note that against the order passed by the Irrigation Officer, an appeal lies

to the District Collector.

In the light of the statutory provisions and having regard to the allegations made by the petitioner against the action of the respondents, who are the designated Irrigation officers, the writ petition is disposed of granting liberty to the petitioner to make a representation before the District Collector, Krishna District raising all the objections against the impugned action of the respondents in removing the existing pipes between 402 M and 833 M of Nakkalakodu branch of Motur channel, Gudivada Mandal, Krishna District within a period of one week from today. If any such representation is made, the same shall be considered and appropriate orders shall be passed in accordance with law after affording due opportunity to all the parties concerned within a period of one week thereafter. Till such orders are passed, there shall be a direction to the respondents to maintain the existing system of supply of water between 402 M and 833 M of Nakkalakodu branch of Motur channel, Gudivada Mandal, Krishna District.

Accordingly, the writ petition is disposed of. No costs.

01-11-2004

kdl

To

- 1 The Divisional Engineer, Irrigation, PWD Division,
Gudiwada, Krishna District.
- 2 The Executive Engineer, Irrigation, PWD Division,
Vijayawada, Krishna District.
- 3 Two C.Cs. to the Government Pleader for Irrigation, High Court Buildings, A.P.,
Hyderabad, (OUT).
- 4 Two C.D. Copies.

Note:

Communicate a copy of this order
to the District Collector, Krishna District.